

# Law Enforcement and Correctional Officers Permissible Uses of Force

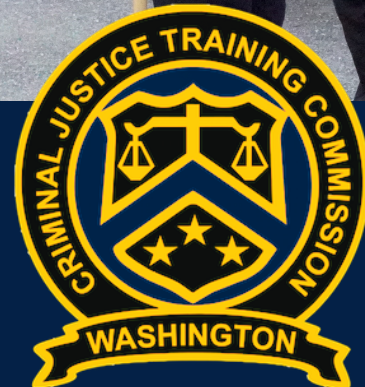
Washington State  
Criminal Justice Training Commission

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1310

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**PREPARED BY :**  
Sean Hendrickson  
Applied Skills Division Manager







## BACKGROUND AND CONTEXT

During the 2021 legislative session, Washington lawmakers passed HB 1310, a new law governing when and how law enforcement officers can use force against members of the public. The law creates an expectation for officers to de-escalate and requires law enforcement to exercise reasonable care in the use of physical force, in order to reduce violence and prioritize the sanctity of life.

### USE OF FORCE BY POLICE OFFICERS

The United States Constitution, in particular the Bill of Rights, protects citizens from excessive force by the government. Depending on the custodial status of the person against whom force is being used, the Fourth or Fourteenth Amendment provides the legal standard for determining whether the use of force is permissible. For persons subject to arrest or detained pretrial, the use of force by a peace officer must be reasonable under the totality of the circumstances. Whether an officer's actions are considered reasonable depends upon several factors.

This may include, for example, the severity of the crime, the threat to the safety of the peace officer or others, and whether the suspect is actively resisting arrest or attempting to evade arrest by flight. State law does not contain separate standards for use of force by peace officers, though it generally authorizes an officer to use all necessary means to effect the arrest of a suspect who flees or resists arrest. This authorization is subject to the limitations under the United States Constitution and the restrictions in the state criminal code governing justifiable homicide and use of deadly force.

*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.*



## CIVIL REMEDIES

Under federal law, the primary legal remedy for the excessive use of force by a peace officer is to seek damages through a civil cause of action for deprivation of constitutional rights under 42 U.S.C. §1983. Though state law does not provide a specific cause of action for violation of state constitutional rights, a person may file a tort claim for assault or battery based on the intentional actions of a peace officer. In 2019 the Washington Supreme Court held that an injured party could also file a negligence claim premised on a peace officer's unreasonable failure to follow police practices calculated to avoid use of deadly force, so long as allegations support a negligence claim concerning the peace officer's actions leading up to the decision to use deadly force.

## CRIMINAL LIABILITY OF PEACE OFFICERS

Whether a peace officer is criminally liable for using force depends on the specific crime alleged and any applicable defense. A peace officer has the same right of self-defense as others. In addition, deadly force is justifiable when used by a peace officer in certain circumstances so long as he or she is operating in good faith.



"Good faith" is an objective standard which must consider all the facts, circumstances, and information known to the peace officer at the time to determine whether a similarly situated reasonable peace officer would have believed that the use of deadly force was necessary to prevent death or serious physical harm to the officer or another individual. The circumstances where deadly force is justifiable include, for example, when necessarily used to: arrest a suspect who the peace officer reasonably believes has committed a felony; prevent escape or recapture an escapee from prison or jail; or suppress a riot involving a deadly weapon.

In regards to training requirements, all peace officers are required to complete basic training through the Washington State Criminal Justice Training Commission (WSCJTC). Basic training consists of a 720-hour program covering a wide variety of subjects including: understanding and applying legal authority; traffic enforcement; cultural awareness; position and movement; threat management; equipment management; communication and writing skills; emergency vehicle operations; firearms; crisis intervention; criminal investigation; and defensive tactics. In addition, all peace officers are required to complete violence de-escalation training through the CJTC within the first 15 months of employment, and then must complete updated violence de-escalation training periodically thereafter.



# CRIMINAL JUSTICE TRAINING COMMISSION



Sec. 6. RCW 43.101.450 and 2019 c 1 s 3 (Initiative Measure No. 940) are each amended to read as follows:

## **No. 01**



Beginning one year after December 6, 2018, all law enforcement officers in the state of Washington must receive violence de-escalation training. Law enforcement officers beginning employment after December 6, 2018, must successfully complete such training within the first 15 months of employment. The commission shall set the date by which other law enforcement officers must successfully complete such training.

## **No. 02**



All law enforcement officers shall periodically receive continuing violence de-escalation training to practice their skills, update their knowledge and training, and learn about new legal requirements and violence de-escalation strategies.

## **No. 03**



The commission shall set training requirements through the procedures in RCW 43.101.455.

## **No. 04**



Violence de-escalation training provided under this section must be consistent with RCW 10.120.020 and the model policies established by the attorney general under RCW 10.120.030 .

## **No. 05**



The commission shall submit a report to the legislature and the governor by January 1st and July 1st of each year on the implementation of and compliance with subsections (1) and (2) of this section.

The report must include data on compliance by agencies and officers. The report may also include recommendations for any changes to laws and policies necessary to improve compliance with subsections (1) and (2) of this section.



## PATROL TACTICS INSTRUCTOR

**The Patrol Tactics Instructor (PTI) Course was developed to certify law enforcement trainers to instruct violence de-escalation training to law enforcement officers throughout the state under WAC 139-11-020.**



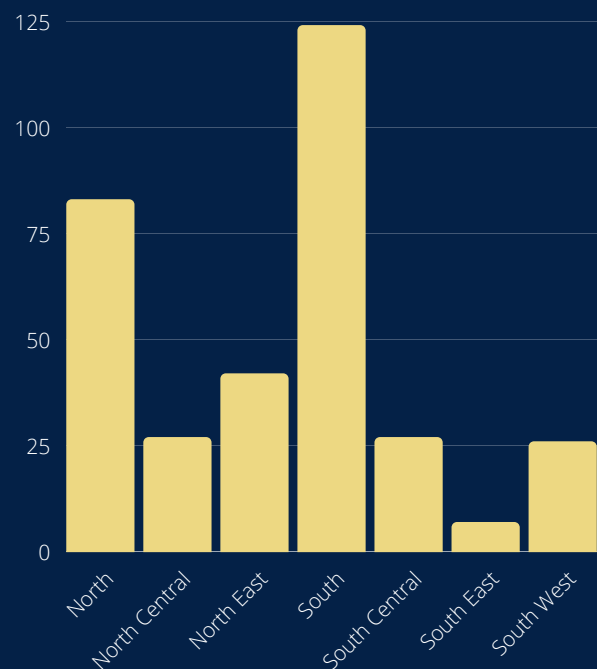
PTI is an 80-hour course made up of several topics to include but not limited to; the principles of patrol tactics designed to slow down the pace of critical events, critical life saving skills, emotional intelligence, the L.E.E.D. model of communication (Listen and Explain with Equity and Dignity), and dealing with individuals experiencing a behavioral health crisis. The course is designed to not only teach the students the knowledge and skills necessary to slow down the pace of critical events but also how to teach other officers the knowledge and skills necessary.

At the conclusion of the training, the certified patrol tactics instructors have the ability to deliver the instruction through several different means. The instructor can provide training to members of their own agency through in-service training. In addition, a certified PTI can also serve as the lead instructor or assist in regional training. This model of training is designed to take place over three full days and available to any law enforcement officer in the state held at a WSCJTC regional training site. A certified PTI can also hold the three-day de-escalation training at a recognized facility not considered a regional training site but with permission from the WSCJTC. A certification in PTI is also required to teach patrol tactics at the Basic Law Enforcement Academy.

This model was adopted to deliver the required and necessary training to 11,000 certified peace officers in the state of Washington and every incoming peace officer as soon as possible. Every Patrol Tactics Instructor course was led by the WSCJTC De-Escalation Program Manager.

To date, 439 patrol tactics instructors have been trained and certified by the WSCJTC.

A total of 336 patrol tactics instructors are actively facilitating training in various regions across the state of Washington.







## PATROL TACTICS INSTRUCTOR TRAINING

From January 2022 to June 2022, four Patrol Tactics Instructor courses were held in Bellingham, Spokane, Seattle, and Burien. During this time period, 109 students attended and obtained certification to train patrol tactics.

January 2022	February 2022	March 2022	June 2022
BELLINGHAM	SPOKANE	SEATTLE	BURIEN
30 TOTAL STUDENTS FROM:	18 TOTAL STUDENTS FROM:	31 TOTAL STUDENTS FROM:	30 TOTAL STUDENTS FROM:
Blaine Police Department	Spokane Police Department	Lakewood Police Department	King County Sheriff's Office
Kent Police Department	Spokane County Sheriff's Office	Seattle Police Department	Lacey Police Department
Port of Seattle Police Department	Washington State Patrol	Lacey Police Department	Kirkland Police Department
Bellingham Police Department		Kittitas County Sheriff's Office	Chehalis Police Department
Tumwater Police Department		Tacoma Police Department	Redmond Police Department
Edmonds Police Department		Yakima County Sheriff's Office	Bellevue Police Department
Grandview Police Department		King County Sheriff's Office	Gig Harbor Police Department
Whatcom County Sheriff's Office		Black Diamond Police Department	Washington State Gambling Commission
Yakima County Sheriff's Office			Edmonds Police Department
Snohomish County Sheriff's Office			Kent Police Department
Western Washington University Police Department			Clark County Sheriff's Office
Ferndale Police Department			Milton Police Department
King County Sheriff's Office			Tumwater Police Department
Sunnyside Police Department			Bremerton Police Department
			Des Moines Police Department
			Renton Police Department



## PATROL TACTICS IN-SERVICE TRAINING (PTIS)

**WAC 139-11-020 requires that “All peace officers certified in Washington before December 7, 2019, and lateral peace officers certified in Washington after December 7, 2019, must complete a minimum of forty hours of continuing de-escalation and mental health training every three years after receiving their initial peace officer certification. Incumbent peace officers must complete their first cycle of continuing de-escalation and mental health training by January 1, 2028.”**



Of the topics that were listed in the WAC, WSCJTC devotes 24 hours of the 40 hours of in-service training to the knowledge and skills associated with distance management and use of shielding, when feasible, to slow down the pace of critical events to decrease the likelihood of officers needing to use physical or deadly force.

In March of 2020, the methodology and content of the Patrol Tactics course was integrated into the Basic Law Enforcement Academy (BLEA) curriculum and titled Patrol Tactics Basic (PTB).

In January of 2022, the Basic Law Enforcement Equivalency Academy (BLEEA) curriculum was updated to include the legislatively mandated de-escalation training through the Patrol Tactics In-Service training. The Equivalency Academy is designed to provide training and certification to lateral peace officers coming from out of state. The mandatory 24 hours of de-escalation training is now part of certification for lateral officers who come from agencies outside of Washington State.

### Total Advanced Skills De-Escalation Participants YTD

PTIS - 1578      PTB - 740



## **WSCJTC BASIC SWAT COURSE**

**For the last 12 years, in cooperation with the Washington State Tactical Officers Association (WSTOA), the WSCJTC has advertised on their website, handled registration, and maintained the records for the Basic and Advanced SWAT Course, while the WSTOA has delivered the content as a vendor under the umbrella of the WSCJTC. The Basic SWAT Course is designed to train incumbent law enforcement officers who have recently been selected to serve as SWAT team members for their agency or in their region.**

In October of 2020, WSCJTC conducted an audit on the Basic SWAT Course using an independent third party. The auditor was a current law enforcement officer, current member of a SWAT team and certified Patrol Tactics Instructor under the Law Enforcement Training and Community Safety Act (LETCSA). The Deputy Director of the WSCJTC shared the audit report with the Executive Director, who summarized the report to the commissioners at a commission meeting in June of 2021. Based on the information provided, it was decided by the commissioners that it would be the responsibility of the WSCJTC to not only handle administrative duties but also to provide the Basic SWAT instruction themselves.

To bring this training into alignment with WAC 139-11-020, the WSCJTC met with approximately 20 subject matter experts to collect information on the expectations of a student who completed the Basic SWAT Course. This information formed the scope of training needed as well as the terminal performance objectives and learning goals of the course. The WSCJTC then set out to construct the course content using current members of a SWAT team who also serve as Patrol Tactics Instructors under LETCSA.

In October of 2021, the WSCJTC held the first SWAT Basic Course since WAC 139-11-020 went into effect. The training was held at Ravensdale Gun Range in King County and 13 instructors delivered the instruction under the supervision of the De-Escalation Program Manager of WSCJTC.

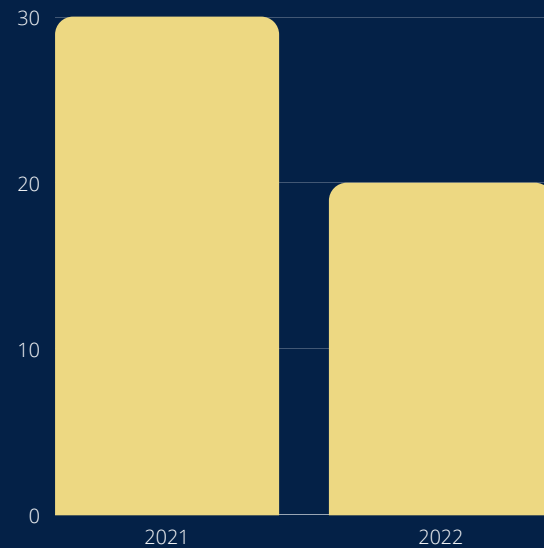


In March of 2022, the second SWAT basic course was held. The training was held at Ravensdale Gun Range in King County and there were 13 instructors who delivered the instruction under the supervision of the De-Escalation Program Manager of WSCJTC.

The instructional delivery focused on the knowledge and skills associated with new legal requirements and violence de-escalation strategies for SWAT officers. The requirements to teach the course included being a active member of a SWAT team and a Patrol Tactics Instructor in good standing.

In addition, the WSCJTC is seeking expanded partnerships and locations to offer SWAT training in Eastern Washington.

To date, 50 students from several agencies have attended SWAT Basic Course.



October 2021	March 2022
<b>RAVENSDALE RANGE – KING COUNTY</b>	<b>RAVENSDALE RANGE – KING COUNTY</b>
<b>30 TOTAL STUDENTS FROM:</b>	<b>20 TOTAL STUDENTS FROM:</b>
Bellevue Police Department	King County Sheriff's Office
Aberdeen Police Department	Everett Police Department
Lake Forest Park Police Department	Snohomish County Sheriff's Office
Whatcom County Sheriff's Office	Island County Sheriff's Office
Kitsap County Sheriff's Office	Mountlake Terrace Police Department
Olympia Police Department	Bellingham Police Department
King County Sheriff's Office	Walla Walla County Sheriff's Office
Seattle Police Department	Vancouver Police Department
Mason County Sheriff's Office	Monroe Police Department
Omak Police Department	Kitsap County Sheriff's Office
Thurston County Sheriff's Office	Clark County Sheriff's Office
Kirkland Police Department	Bothell Police Department



## **LAW ENFORCEMENT TRAINING AND COMMUNITY SAFETY ACT TRAINING**

**Following the passage of I-940 and SHB 1064, the legislation was renamed to the Law Enforcement Training and Community Safety Act (LETCSA). The WSCJTC began to work with named statutory stakeholders to create and adopt rules for new officer training requirements (139-11 WAC). The WSCJTC is working diligently to create course curriculum for law enforcement officers.**

### **Law Enforcement and Society: Lessons of the Holocaust: Credit Hours: 2.5**

The Holocaust for Humanity Center and the Anti-Defamation League (ADL) engage with law enforcement to examine the role of police in Nazi Germany, as a case study, and to reflect on the role of law enforcement in a democratic society today. Officers will learn to build more positive relationships with specific communities within areas they serve by understanding how biases and stereotypes negatively impacts police interactions with the public. **Amount of completed officers: 280**

### **The Criminal Legal System: Structural Inequalities, Monetary Sanctions, Policy and Reform: Credit Hours: 2**

This curriculum is a four-module series that introduces the audience to the United States criminal legal system. The first module defines the term structural inequalities and provides examples of various disparate racial and ethnic outcomes in U.S. institutions. The second module describes the rise in U.S. conviction and incarceration rates from the mid-1970s through today. The third module examines an expansive punishment outcome related to most citations and convictions across the United States – this is the sentence of fines, fees and other costs. The final module examines policy and practice implications. We review incremental policy reforms happening across the United States in attempts to mitigate the negative outcomes related to criminal legal contact, particularly for people who are socioeconomically disadvantaged. **Amount of completed officers: 2165**

### **Effective Communication: Credit Hours: 2.5**

In this self-paced course, officers will learn multiple strategies to apply when interacting with individuals in their community with differing backgrounds. This course provides supplemental methods to the LETCSA overarching principles of pace management which involves time, distance, and shielding. The development of this course was a partnership with the following organizations: Kitsap Support, Advocacy, and Counseling; Rebuilding Hope! Sexual Assault Center for Pierce County; Washington State Department of Social and Health Services; and Spokane Immigrant Rights Coalition. **Amount of completed officers: 573**

### **LGBTQ+ Core Competency: Credit Hours: 2.5**

This training equips participants with current and accurate information surrounding laws, the historical context around the relationship between the LGBTQ+ community and law enforcement, terminology, and more so that officers feel confident in their knowledge regarding the LGBTQ+ community. Other areas covered in this training will be gender identity, gender expression, and pronoun usage so that officers may effectively and respectfully communicate with LGBTQ+ individuals. **Amount of completed officers: 772**





## CONCLUSION

In the last budget allotment, WSCJTC was funded for a full-time "Use of Force Coordinator" position. The Use of Force Coordinator will be responsible for the creation of the WSCJTC Use of Force training program, curriculum, and proper distribution of information related to Use of Force. This position is responsible for ensuring the Use of Force training is legally defensible to ensure criminal justice professionals have the knowledge to safely protect the communities they serve. This position will be responsible for coordinating with Washington State agencies to ensure agency policy and training is current with Use of Force legislation. The Use of Force Coordinator will be considered the subject matter expert on Use of Force for the WSCJTC and expected to create and continuously improve upon a teaching model on Use of Force for the state of Washington aligned with state laws. Further responsibilities include initiating and completing audits of the WSCJTC curriculum to ensure alignment with state laws. It is the belief of the WSCJTC that this position will be critical in assisting all of the agencies in Washington State in keeping up to date with all legislative and legal changes to use of force.

**WSCJTC will be holding one more Patrol Tactics Instructor course in 2022.  
The course is scheduled to take place in Yakima on September 19, 2022.  
WSCJTC will continue to host the PTIS training quarterly in 2022.**

